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The Sexual Assault Lawsuit Against Ed Henry Just Took a Wild Turn

| 'SPEAKING MY TRUTH' |

One current Fox News staffer says her own claims against the former Fox anchor have been inaccurately portrayed in the latest complaint against him.

Diana Falzone Updated Nov. 15, 2020 2:55PM ET
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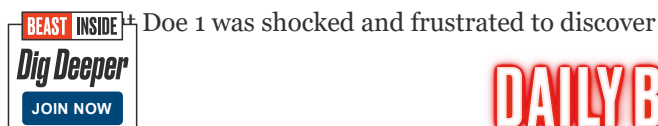
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A former producer's lawsuit alleging rape by former Fox News anchor Ed Henry may have hit a complicating snag: a current Fox News staffer says her own allegations against Henry have been inaccurately included in the complaint.

Former Fox News producer Jennifer Eckhart, who alleged earlier this year that she was forcefully raped by Henry during her tenure at the conservative TV outlet and was terminated after coming forward with claims of inappropriate workplace behavior, filed her third amended complaint against Henry in New York federal court on Nov. 9, 2020.

In the new complaint, Eckhart includes a section detailing allegations made by several other women, including "Jane Doe 1," a current Fox News staffer, who in August told The Daily Beast—speaking anonymously due to fear of retaliation from Henry and Fox—that she had carried on a consensual, at times "emotionally abusive," relationship with Henry for nearly four years, ending this spring.

At the time, Doe 1 was explicit about the nature of their affair: "Unlike Ms. Eckhart, I was not raped. However, during a sexual encounter, I was slapped across the face and was shocked at the forceful nature."



Doe 1 was shocked and frustrated to discover

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with him on top of his New York City office desk at Fox News on June 9, 2019.”

Calling that allegation “inaccurate,” Doe 1 asserted that she was “not coerced” during that particular incident. “I stand by my claim that he was emotionally abusive, but he did not coerce me into any inappropriate activity that day,” she said. “The relationship was wrong and inappropriate and I regret it every single moment of every day, but he did not force me into any activity.”

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Additionally, the complaint alleges that “Henry laughed in [Doe 1’s] face, and told her that she would ‘never amount to success’”—a charge that Doe 1 disputes ever happening. Henry “did not laugh in my face and tell me I wouldn’t amount to anything when I told him about a promotion. He congratulated me via messaging,” she explained to The Daily Beast. “However, he told me I wouldn’t amount to anything during an argument on a different occasion about my career, via messaging.”

Elsewhere, the amended complaint relays that early in her journalism career, Henry invited Doe 1 up to his LA hotel room and she took a friend, “Jane Doe 3,” so that she did not go alone. “Once there, Mr. Henry plied the two young women with alcohol, tried to seduce them and attempted to kiss Ms. Doe 3, who rejected his advances.”

This story, too, is inaccurately portrayed in the suit, Doe 1 told The Daily Beast. “As far as I am aware, interactions between the parties occurred

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However, Doe 1 emphasized, “I want to make clear I am not making excuses for Mr. Henry’s actions. I am just speaking my truth.”

Blindsided to learn that her casual conversations with Eckhart were used and, in some cases, inaccurately retold in the latest legal filing, Doe 1 alerted Eckhart’s attorney, Michael J. Willemin, partner at Wigdor LLP of the discrepancies.

In an email exchange between Doe 1 and Willemin, obtained and reviewed by The Daily Beast, Doe 1 wrote: “[Henry] did not physically harm me or coerce me into any activity that I did not want. Yes, he was emotionally abusive... I hope you will amend the lawsuit to reflect accuracies, or leave out things that aren't true. I have helped this cause so much, I shouldn't feel so vulnerable right now.”

And Eckhart’s counsel responded: “Everything that we put in the lawsuit is based on what you told Jennifer (including that you told her that he coerced you that day). Obviously, at some point you may testify in this matter and all we can ask is that you are truthful. I don’t know whether this conflict has anything to do with concerns you are laying out about retaliation, but either way I can only rely on what Jennifer has said to me.”

In a statement to The Daily Beast, Willemin wrote: “We expect that Jane Doe 1 and others will testify truthfully once under oath and their communications and documents will speak for themselves.”

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on things I told Ms. Eckhart,” Doe 1 lamented to The Daily Beast. “If I had known that my stories would have been included in the lawsuit, and if I gave permission, I would have carefully worded and made clear any situation. Talking casually is different from proper testimony. I was not a willing participant in the amended complaint. I was scared when I saw my stories were included.”

Eckhart’s brutal lawsuit against Henry has already seen its share of salacious antics, including a recent filing in which the ex-Fox anchor attempted to dismiss the claims using what victims’ rights activists said was “revenge porn” against his accuser.

It is unclear if Eckhart’s attorney will remedy the alleged inaccuracies laid out by Doe 1, but if left unchecked, any known errors could pose a problem.

In New York, under the American Bar Association’s ethical guidelines, NYU Law Professor Stephen Gillers explained, “a lawyer may not ‘knowingly’ make a false statement to the court or introduce the false statement of someone else. This is true whether the lawyer is speaking or submitting a document. But the critical word is ‘knowingly.’ A lawyer may submit or make a statement he believes but does not know is false. A lawyer may assume that his client’s statement is true so long as he does not know if it is false. If a lawyer has personally made a statement or introduced a statement of a client or another person and later comes to know that the statement is false, he must remedy the falsity even if that means disclosing a client’s confidential information. That usually means disclosing the falsity of the statement to the judge.”

The professor continued: “The duty to remedy only arises if the lawyer actually does know that the information given the court is false. ‘Alerted’



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actually know that the information is false. A lawyer may be ‘alerted’ but have reasons to doubt the alert. If the detail given the lawyer is strong enough it can amount to actual knowledge which the lawyer cannot ignore. Knowledge is the test. The rules say that whether or not a lawyer has knowledge can be ‘inferred from the circumstances.’ A lawyer may not close his eyes to the obvious.”

But while Doe 1 claims the lawsuit misrepresented her relationship with Henry as non-consensual, that does not and should not discredit Eckhart’s rape allegations, emphasized survivor advocate Kimberly Corban.

“Sexual assault is a crime that hinges on the absence of consent from a victim. If a person is unable or unwilling to freely and enthusiastically say ‘yes’ to the other party, then consent is not present... If a person steals a car, we don’t say, ‘Well, they’ve rented other cars before, so they obviously didn’t steal this one.’ It’s that basic,” Corban explained. “When a rape occurs, it doesn’t mean the accused couldn’t have had consensual sex with other consensual parties, it means they sexually assaulted the person who did not give their consent.”

Doe 1 agreed.

“I one hundred percent believe [Eckhart’s] claims and do not believe she is falsifying any of her claims,” she said. “I am on her side and the side of other victims. I support her in her journey.”

—*Diana Falzone* was an on-camera reporter for Fox News from 2012 to 2018. In May 2017, she filed a gender discrimination and disability lawsuit against the network and settled, and left the company in March 2018.

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